

January 15, 2008

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Re: SAP Aktiengesellschaft v. i2 Technologies, Inc., C 07-04187 SBA MED

Dear Counsel:

As you know, I have been appointed by the District Court to serve as the mediator in this case under the court's Mediation program. Please be sure to review carefully ADR L.R. 6 which governs the mediation program. I have attached a resume describing my professional experience.

Pursuant to ADR L.R. 6-6, I will conduct a phone conference with all counsel before the formal mediation to discuss the following:

- 1) the procedures to be followed;
- 2) the nature of the case;
- 3) appropriate dates for the mediation and anticipated length of the session;
- 4) ideas to improve the effectiveness of the mediation session or matters that could pose impediments;
- 5) requirements for your written mediation statements; and
- 6) any questions you might have about the mediation program.

I anticipate that the telephone conference will last approximately one-half hour. The telephone conference will be held on Thursday, January 24, 2008, at 11:00 a.m. PST. Details regarding the call in numbers will be sent to you shortly. Before the telephone conference, please ascertain from your clients and any insurers a selection of dates upon which the mediation may be conducted. I understand that the parties wish to hold the mediation before February 29, 2008.

My conflicts check revealed no actual or potential conflicts of interest under 28 U.S.C. §4555 (a) and (b), and I am not aware of any other circumstances that would compromise my impartiality of the appearance of impartiality. I do wish to disclose that within the last year I was an arbitrator on a three-arbitrator panel in a case in which one of the parties was represented by McKool Smith. The case settled prior to hearing. I also wish to disclose that within the last three years I was chair of a three person arbitral panel in a case in which one of the parties was represented by Michael Sacksteder of Fenwick & West. The case was dismissed following a hearing.

I look forward to assisting you on this case.

Sincerely,

M. Scott Donahey

Cc: Alice M. Fiel, ADR Program